bidding by reviewing the anticipated principal uses for a class of licenses as a whole, not the proposed uses of each individual applicant.

This proposal is reasonable and appropriate. Examination of individual applications would be costly and burdensome for the Commission. Individual review could also cause delays in meeting the service deployment goals of the statute.[20] AT&T therefore supports the Commission's proposal (¶ 32) that at least a majority of the anticipated use of a class of service subject to competitive bidding must be to subscribers for compensation.[21]

The NPRM (fn. 14) also requests comments on the standards that should be used to make the "principal use" determination. AT&T suggests that the standards should be flexible, because there is no way to anticipate today all of the possible uses of the electromagnetic spectrum. In some cases, such as PCS, the answer is obvious. In other cases,

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20 Individual review could also encourage applicants to be less than forthright about their planned use of the spectrum. This, in turn, could cause enforcement problems after licenses are awarded.

21 Given the express requirements of Section 309(j)(2), AT&T seriously questions whether the existence of a single proposal to use spectrum to provide service to subscribers for compensation could reasonably be permitted to "contaminate" all other possible uses of that spectrum. (See NPRM, ¶ 33) An exception that applied only to public safety entities would not protect other potential private users. Moreover, it is not clear how such an exception would be administered.

the appropriate answer may not be known until the service specifications and proposed applications are developed. In general, however, the Commission's standards should favor the use of competitive bidding, except in cases where such bidding would not serve the public interest.

B. The Commission's Application of the Statutory Criteria to "Intermediate Links" Will Not Promote the Public Interest, Especially for Point-to-Point Microwave Services and Satellite Services.

The NPRM (¶¶ 28-29) recognizes that "further analysis" of the statutory criteria is necessary to determine whether spectrum licenses "used in services as an intermediate link in the provision of a continuous end-to-end service to a subscriber" should be subject to competitive bidding, if the other statutory criteria are met. The NPRM (¶ 29) tentatively proposes, principally as a matter of administrative convenience, that mutually exclusive license applications for spectrum that will be used as intermediate links would be subject to competitive bidding.

AT&T disagrees with the Commission's broad-brush "all or nothing" approach. In particular, the public interest would not be served by the NPRM's tentative conclusion (¶¶ 157,153) to require competitive bidding for point-to-point microwave services and for fixed satellite services.

The Commission correctly notes (¶ 28) that competitive bidding can only be applied when there are mutually exclusive spectrum license applications. In fact, such situations are rare for these services, because the Commission's prior coordination requirements allow for effective sharing of frequencies.[22] Section 309(j)(6)(E) requires the Commission to continue to use these and similar engineering solutions "to avoid mutual exclusivity in licensing and application proceedings." These procedures have proven effective in nearly every instance and essentially eliminate any need for competitive bidding.

Application of competitive bidding rules for point-to-point microwave and fixed satellite services could have the perverse effect of encouraging speculators to file mutually exclusive license applications in hopes of winning auctions and selling the right to use the frequency back to the existing service providers. Such a result would merely add costs to carriers but no benefits to customers.[23] Moreover, the administrative and operational costs of providing satellite services are already extraordinarily high. The current economics of such service have already

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22 See 47 C.F.R. § 21.100.

23 Even if other bidders build their own facilities, introduction of "intermediate link" providers will splinter the responsibilities for end-to-end services and drive up maintenance and service coordination costs.

driven all but a few competitors away from offering facilities-based satellite services. No public interest would be served by adding additional and economically inefficient costs to such services.

A competitive bidding requirement could also delay implementation of the current licensing procedures that allow carriers to use microwave facilities to complete quick start applications and disaster recovery operations following emergencies. Furthermore, when these services are used as intermediate links in an end-to-end signal they fall outside of the statutory definition, because subscribers do not "receive communications signals" or "transmit directly communications signals" using the licensed frequency.[24] Rather, the carrier provides and maintains access to both ends of the radio transmission and is responsible for integrating the radio transmission into the entire communications path.

As a result, no public interest would be served by requiring competitive bidding for point-to-point microwave services or satellite services, whether or not the frequency is used to provide an "intermediate link." Comparative license hearings among qualified applicants would allow the Commission to determine how the public interest would best

[24] Section 309(j)(2)(A).

be served in the rare situations where there are mutually exclusive and unresolvable conflicts over spectrum use for such services.[25]

IV. PREFERENCES MADE AVAILABLE TO DESIGNATED ENTITIES SHOULD BE SUBJECT TO REASONABLE SAFEGUARDS.

A. The Commission Has Substantial Discretion in Creating Financial Preferences for Designated Entities.

Section 309(j)(3)(B) provides that the competitive bidding process should seek to "disseminate licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women."[26]. The NPRM (¶ 72) states that the Commission is considering a variety of preferences, and it requests comment on the implications of each.

The statute gives the Commission wide latitude in establishing payment terms and interest rates for designated entities. The Commission also has substantial latitude in determining the creditworthiness of such applicants, subject to the statutory objective of assuring the prompt delivery

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25 AT&T also seeks clarification that private shared use of radio spectrum under Part 94.17 of the Commission's Rules would not be subject to competitive bidding.

26 These entities are collectively referred to in the NPRM as the "designated entities." See also Sections 309(j)(4)(C)(ii) and 309(j)(4)(D).

of services and intensive use of spectrum.[27] The Commission's overall goal should be to design a group of financial "enabling devices" that will overcome the capital formation difficulties historically experienced by these entities.[28]

Regardless of the financial preferences the Commission may establish, however, all designated entities should have the same duties to implement service within their licensed areas as all other spectrum licensees. Relaxation of such requirements would be contrary to the statutory objective to promote prompt and widespread deployment of new technologies and services.[29]

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27 The Commission should also have substantial latitude to determine when, and under what circumstances, tax certificates should be made available to designated entities. Any tax certificates issued should, however, be revocable if the designated entity licensees fail to comply with the build-out requirements for the license or attempt to misuse their licenses, e.g., by unjustly enriching themselves or others.

28 Small Business Advisory Committee ("SBAC") Report, p. i. AT&T does not support, however, the application of the "innovator's bidding preference" or the "technical credits" suggested by the SBAC. (See NPRM ¶ 50, fn. 61) These and similar preferences would require substantial technical review, and possibly legal challenges, before an auction could be conducted. Thus it would be infeasible to determine bidders' eligibility for such preferences prior to an auction.

29 See Section 309(j)(4)(C)(iii).

B. **The Definitions of Qualifying Designated Entities Should Be Clearly Stated and Strictly Enforced.**

In order to minimize potential disputes over parties' eligibility to receive preferences, the Commission's rules should clearly define the entities who may qualify for preferences. In order to assure that only qualified entities benefit from preferences, the Commission's definitions should also be strictly enforced.

For businesses owned by women and minorities, the Commission should establish a clear rule that such business must be 50.1% owned by, and also controlled by, members of the identified group. The statutory purposes would not be served if preferences are provided to businesses which "front" for others who are not entitled to special treatment under the statute. Therefore, "control" should be defined in the regulations to mean actual *operational* control of the day-to-day and strategic decisions of the business. Moreover, minority or women-owned businesses should be required to re-certify their status at least annually. In addition, any material change in either the ownership or management of such businesses should be reported promptly to the Commission, *i.e.*, within five business days. Continuation of the preference should be subject to continued compliance with the equity and control requirements.

Similar standards should also be applied to consortia that include designated entities. No special preferences should be offered to any consortium that is not predominantly owned and actually controlled by designated entities.[30] Any other decision would encourage fraud in the formation of consortia that seek special financial assistance (and possibly exclusive access to licenses) from the Commission.[31]

Once the eligibility rules have been established, violations should be swiftly punished in order to assure that the Commission's policies (¶ 78) "d[o] in fact aid those groups [Congress was concerned about] and not others who might merely use a member of one of those groups for the purpose of achieving special treatment by the Commission."

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30 If qualifying consortia were 50.1% owned by minority or women-owned entities, the actual minority ownership of the total membership of the consortium could be as low as 25.1%. Therefore, it may be appropriate to require a higher threshold of minority participation in consortia.

31 AT&T has no objection to a definition of "rural telephone company" based upon the current standards of Section 63.58 of the Commission's Rules, provided that no preference is given to such companies for any license that does not include a portion of their franchised service areas, and further provided that no company which is an affiliate of a non-qualifying LEC may be included. AT&T does not believe, however, that the definition should be expanded to include telephone companies which serve incorporated or unincorporated areas of over 2,500 inhabitants.

C. Reasonable Safeguards are Necessary to Assure That Parties are Not Unjustly Enriched by the Use of Preferences.

Section 309(j)(4)(E) requires the Commission to enact regulations that prevent unjust enrichment. Reasonable safeguards will be necessary to assure that financial preferences for designated entities will not lead to such a result. Safeguards and appropriate anti-trafficking requirements will be even more necessary to protect against unjust enrichment in connection with any set-asides the Commission establishes.

The Commission (¶ 84) correctly concludes that outright prohibitions on the transfer of licenses awarded through competitive bidding would not serve the public interest. However, it also recognizes (id.) that some anti-trafficking measures are necessary when designated entities have received special preferences under the Commission's rules. Therefore, the Commission (id.) requests proposals "on a system of financial disincentives to prevent sellers from realizing any windfall profit from the premature sale of a license."

AT&T recommends that designated entities receiving financial preferences should be required to hold their licenses until the benefits of the preference have expired. Any request to transfer a license prior to that time should be deemed premature and subject to review. If a designated entity licensee requests authority for a premature transfer the Commission should condition the transfer upon terms that will require the licensee to surrender the remaining value of the preference. Thus, the NPRM (¶ 85) appropriately proposes that when a license has been issued under an installment payment plan, the entire amount of the license (including accrued interest, if any) should be due immediately upon the license transfer.

Because of the unique advantages that are provided through set-asides, a stronger rule is necessary to assure that the benefits of the set-aside are only retained by designated entities. Therefore, the Commission should generally limit the transfer of set-aside licenses to other bona fide designated entities during the initial license period. Exceptions should be permitted only in cases where no bona fide designated entity is available to acquire the license and there is a consumer need for services that use such spectrum. In the absence of either condition, the license should terminated and either subject to bid at an open auction or reserved for future use.

In all events, a designated entity who receives a license under a set-aside provision should not be permitted to retain more than its out-of-pocket costs related to the license (including license fees paid and a market-based interest rate on its actual investment), unless it can prove to the Commission that its actions have increased the value of the license. Any excess should, upon transfer, be remitted to the Commission. These rules would allow the

Commission to determine whether a designated entity has earned, through its own efforts, ingenuity or skill, the total amount of the transfer price or only some lesser amount. They would also reserve to the public any difference between the earned amount and the resale price.[32]

V. OTHER PROPOSED REQUIREMENTS

A. Reasonable Application Requirements Are Appropriate.

AT&T agrees that the Commission should impose reasonable preliminary requirements on prospective bidders, in order to assure that auction participants are serious bidders who will be able to provide services to the public. Therefore, AT&T supports the application processing requirements proposed in the NPRM.[33] Applicants should be required timely to file appropriate "short form" and "long-form" applications, together with the appropriate fee, in conjunction with their notices of intention to bid.[34]

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32 This process also frees the Commission from having to develop independently a "comparable" price for the license by placing the burden of proof on the licensee. See NPRM, ¶ 86.

33 See NPRM, ¶¶ 97-101.

34 AT&T has no objection to the proposal (¶ 130) to use of a one-day filing window for applications. AT&T recommends, however, that an electronic filing mechanism should be developed and available to bidders as soon as possible. AT&T also agrees that a 90 day notice period is appropriate for spectrum auctions and that potential

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If the Commission permits waiver petitions in connection with the application process,[35] the filing period should be brief, and the grounds for obtaining waivers should be narrowly defined. The Public Notice and pre-bidding process should also provide sufficient time to allow final Commission action on the waiver before the auction. The time for seeking a review of a Bureau decision on a waiver request should therefore be limited to no more than 5 days, excluding holidays.

AT&T disagrees with the NPRM's tentative conclusion (¶ 100) that short-form applications should be reviewed on a "letter perfect" standard. Dismissal based upon a simple clerical error is an unnecessarily harsh penalty that could exclude legitimate parties from the bidding process.[36] Therefore, AT&T recommends that a brief

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bidders should be required to respond to a Public Notice to bid within 30 days. See NPRM, ¶¶ 168-169.

35 The NPRM does not describe the reasons why a waiver of the application procedures might reasonably be necessary. There may in fact be no reason to seek a waiver of the requirements for the short form application, which seeks minimal information about the applicant. Moreover, parties seeking a waiver must demonstrate good cause for the application. 47 C.F.R. § 1.3.

36 Application of so harsh a penalty is particularly inappropriate in the start-up phase of the auction process. Moreover, the sole rationale for the rule is administrative convenience, i.e. "considerations of time

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cure period (e.g., 5 days) should be permitted to allow all defective applications to be corrected.[37]

The NPRM (id.) also seeks comment on the standards that should be used to review long-form applications. Such applications should be acceptable if they substantially comply with the Commission's rules. A more technical approach would encourage petitions to deny applications after bidding has been closed. Furthermore, tentative winning bidders could face a disproportionate forfeiture if the post-bid review process focuses on technicalities rather than the substance of their applications.

AT&T agrees with the Commission's conclusion (¶ 101) that there should be a period of 45 days between announcement of eligible bidders and the auction, provided that the Commission also allows changes in the ownership of proposed bidders until shortly before the actual auction. This would strike a reasonable balance between bidders' need for preparation time and the statutory goal of promptness.

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and simplicity." (NPRM, ¶ 100) Adoption of the proposed rule, however, could have highly disproportionate substantive effects upon otherwise qualified bidders.

37 This cure period should apply to all defects relating to the application, including failure to submit filing fees. See NPRM, fn. 90.

AT&T disagrees, however, with the Commission's tentative conclusion (id.) that "major" ownership changes in bidders' applications should not be permitted prior to the auction. The Commission acknowledges (¶ 84) that licenses should generally be freely transferable. There is no reason why changes in the identity of a bidder (or licensee) should not be permitted before, as well as after, the auction.[38] Forbidding such changes could disqualify legitimate bidders who are undergoing a change of ownership shortly before an auction. It could also eliminate bidders' ability to obtain additional bidding partners during that time. In any event, the Commission's other proposed rules provide adequate protection, because tentative winning bidders who fail to comply with the Commission's rules will ultimately be unable to obtain (or keep) the license, and they may also be required to forfeit their deposits. Thus, changes in a proposed bidder's application for a generally available license should not have any substantial impact on the auction and should be permitted at any time.[39]

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[38] Other changes in the application may also be necessary. For example, bidders may need to substitute the persons scheduled to appear at the auction on their behalf. The proposed rules require identification of such persons 45 days in advance. Any number of intervening events (e.g., change in the named individual's duties or employer, illness, personal reasons) may give rise to a legitimate need to name substitute representatives.

[39] Changes in ownership may appropriately be prohibited for a reasonable period before auctions for a set-aside

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B. Upfront Payments and Deposits Should Be Required.

AT&T strongly concurs with the Commission's determination (¶ 102) that bidding must be limited to "serious qualified bidders," in order to reduce the possibility that licenses are awarded at auction to entities that are later found unsuitable. AT&T therefore supports the proposal (id.) to require prospective bidders to submit reasonable "upfront payments" in immediately available funds.[40] AT&T also agrees that the amount of the payment should be determined on the basis of the largest number of licenses for which the party seeks to bid. Moreover, AT&T supports the establishment of additional financial

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spectrum license, because the identity of the bidder determines whether it will be eligible to participate.

[40] AT&T recommends that the upfront payments should actually be tendered and deposited shortly before the auction. These payments should be returned immediately upon receipt of the required deposit from the tentative winning bidder. Because the Commission will often be holding these payments for several days (particularly for sealed bids) and the amount of the upfront payment will in some cases be substantial, the Commission should establish interest-bearing accounts to protect losing bidders from substantial financial loss. In order to minimize administrative inconvenience, however, the Commission might decide to pay interest only in cases where the upfront payment exceeds a specific amount and/or the payments have been held for at least several days. In order to avoid the need to "churn" upfront payments, the Commission should also allow bidders who will bid on many licenses to establish an interest bearing account which may be used in lieu of individual upfront payments.

qualifications for potential bidders, in order to assure that they have sufficient resources to build facilities necessary to operate the license within a reasonable period.[41]

AT&T also agrees with the proposal (¶ 103) to set the general upfront payment at 2 cents per megahertz per pop. However, a reasonable minimum (e.g., $5,000 for a narrowband PCS license) should be established if this formula will not provide adequate assurance that the bidders will be financially responsible. Similarly, a reasonable maximum (e.g., $5 million for a PCS MTA license) should be established in order not to penalize, or prevent bids from, financially sound entities by tying up excessive amounts of their available cash or credit. The Commission can make individual determinations about the appropriate upfront payment amounts for each auction by specifying them in the appropriate Public Notice.

The proposed deposit requirement (¶ 104) is also a reasonable tool to assure that the highest bidder will be able to fulfill its financial commitments promptly after the

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41 See NPRM, fn. 97. AT&T thus concurs with the Commission's proposal (¶ 128) that PCS applicants seeking to provide Commercial Mobile Services should be required to demonstrate that they have the available financial resources to meet the realistic and prudent estimated costs of constructing and operating their facilities for one year.

auction. AT&T does not object to the 20% deposit proposed in the NPRM. For sealed bid auctions, the deposit should be tendered by cashier's check or wire transfer within one business day.[42] For oral auctions, additional flexibility will be necessary, because the amount of the deposit may not be known until the bidding has concluded. This could be accomplished procedurally by adjourning, but not concluding, the oral bidding for a specified period. If the high bidder posts the deposit before that time, all bidders would be notified that the bidding is closed, and all upfront payments returned. If the high bidder has not posted the full deposit by that time, bidding could recommence. In such event, the previous high bidder should be required to forfeit its upfront payment.[43]

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42 Because many some licenses will require large deposits, the Commission should promptly establish a mechanism to receive wire transfers.

43 Section 309(j)(4)(B) requires the Commission to establish regulations that include "performance requirements, such as deadlines and penalties for performance failures." This provides a statutory basis for ordering the forfeiture of the proposed upfront payments if the high bidder fails to post the required deposit. Such a forfeiture would be similar to the surrender of a bid bond when a winning bidder in a commercial tender fails to execute a contract with the purchaser. The same statutory provision supports the Commission's authority to require tentative winners to forfeit their deposits if they fail to qualify for the license or are subsequently stripped of the license pursuant to Commission rules.

C. Lump Sum Payment Requirements are Appropriate for All Bidders Other than Designated Entities.

The NPRM (¶ 68) correctly concludes that lump sum payment is the most appropriate method in most cases, because it leaves all questions of financing to the private sector, and because it does not require the government to become involved in determinations about licensees' creditworthiness. Further (¶ 69), a lump sum payment requirement relieves the government of risks of default.

AT&T also supports the NPRM's tentative proposal (¶ 175) to require payment in full within 41 days after the bidding closes. However, if the Commission determines that application of this requirement in a specific case would significantly limit the number of serious entities who could participate in the bidding, e.g., because some creditworthy entities may need additional time to complete their financing arrangements, the Commission could establish a payment period of up to 90 days in the notice of invitation to bid. In such cases, the Commission should require the tentative winning bidder to demonstrate that it is in serious negotiations with a responsible lender and that there is a reasonable probability that the financing transaction can be closed within that time.

The Commission also correctly finds (¶ 70) that the use of royalty payments could involve the Commission in substantial administrative procedures that could either be intrusive to the licensee or difficult to implement in practice. Moreover, it could be difficult to place a value upon royalty proposals.[44] Thus the Commission should not use royalties as a payment mechanism.

The NPRM (¶ 71) requests comment on whether alternate payment mechanisms should be made available to any bidders other than the designated entities. AT&T opposes the use of preferences in any situation where it is not specifically authorized by statute. Competitive bidding procedures will affect only those classes of licenses whose principal use is to provide commercial services. The auction process itself allows the marketplace to operate in the most economically fair manner. The operation of the marketplace should not be disturbed, except when it is necessary to meet explicit statutory objectives. In all events, a broad use of alternative payment methods would give rise to a large number of requests for special treatment by entities that should otherwise be able to obtain commercial financing. Extension of financial preferences to such entities would be contrary to the

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[44] It would be difficult, for example, for the Commission to compare the value of two offers of a 5% royalty based upon two different proposed uses of the same spectrum. It would even be difficult to compare two bids at the same royalty level for the same service, because the future revenues that might be generated by these services would be the result of many factors, including marketing, service provisioning and customer acceptance of services that would be offered in the future.

Commission's desire to stay out of the credit process, and it could also create unnecessary delays in the auction process.

D. Bidder-Imposed Limitations and Minimum Bids Are Unnecessary.

The NPRM (¶ 65) concludes that bidders should only be permitted to establish spending limitations in the exceptional case where they must submit simultaneous sealed bids and face the possibility of a significant forfeiture if one of the bids were withdrawn.[45] AT&T concurs that bidders generally should not have the right to place conditions on their bids, either oral or sealed, provided that they may withdraw sealed bids without penalty until the moment of bid opening. This rule would permit bidders who have already expended their available capital to withdraw without prejudicing their ability to proceed with operations under their previously awarded license(s).

AT&T also agrees with the Commission's decision (¶ 67) not to establish a "reservation " price for licenses. Establishment of such a price could be time consuming and technically difficult for the Commission, and it could also cause unnecessary delays in the bidding process. Moreover,

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45 If individual sealed bids are taken for multiple licenses, the Commission correctly concludes (¶ 55) that the sequence of bid opening must be specifically published.

the true market price for any item is the price a willing buyer would be ready to pay at the time of sale. That is exactly the price which an auction is designed to elicit.

E. No Specific Anti-Collusion Rules Are Necessary.

The NPRM (¶ 93) requests comments on the type of rules, if any, that may be needed to prevent collusion in the bidding process. In particular, it seeks comment on the treatment of bidding consortia.

No specific anti-collusion rules are needed in connection with spectrum auctions. Such rules are appropriate when competition is weak, either because there are few potential buyers or because the property being offered is not perceived as valuable. Neither of these conditions exists in the bidding for spectrum licenses. Competition for spectrum licenses is likely to be extremely intense among many bidders,[46] and there are a limited number of licenses available in any geographic area. There is also general consensus that the licenses are viewed as valuable. Thus, the only rule that would appear to be necessary in

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46 The Commission's proposed rules to limit auctions to "serious" bidders assume there will be very active bidding. Moreover, over 150 parties filed comments in connection with the Commission's order allocating PCS spectrum. Amendment of the Commission's Rules to Establish New Personal Communications Services, Second Report and Order, GEN Docket No. 90-314, issued October 22, 1993, p. 5.

this situation, if any, is a general prohibition against collusion in bidding for spectrum licenses.

Furthermore, the NPRM (id.) correctly notes that tightly drawn anti-collusion rules may discourage bids from consortia. Considering the relatively limited number of licenses that will be available and the large amount of capital that will be necessary to implement new services such as PCS, the Commission's rules should encourage, rather than discourage, the formation of such bidding groups.

There should, of course, be swift and strict sanctions applied if actual collusion is discovered in the bidding process. Sanctions could include the possibility of license revocation, deposit forfeiture, other civil forfeitures[47] and disqualification from future bidding. The specific sanction applied in any case should depend upon the severity of the violation, its impact upon the auction process, and the service implementation delays, if any, that result.

F. Procedural Issues

The NPRM (¶ 111) asks whether the Commission should adopt procedures for petitions to deny applications for licenses to use spectrum that is subject to auction, and

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[47] See 47 U.S.C. § 503(b).

it proposes two possible schedules for entertaining such petitions. A petition procedure is appropriate, because the statute forbids the Commission to grant licenses to unqualified applicants,[48] and the Commission should not presume to have all of the relevant information on an applicant's qualifications. A great deal of unnecessary controversy could be avoided, however, if only the tentative winner's application is placed on public notice for comment.[49]

A rule that required all bid applications to be placed on public notice for comment before the auction would generate enormous amounts of unnecessary work and could create substantial delays in the auction process. A post-auction petition process, on the other hand, would focus all attention on the application of the tentative winning bidder, and would substantially conserve resources.

AT&T agrees that the Commission should hold a new auction when the tentative winner is disqualified for any reason after the initial bidding is closed.[50] In order to

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48 Section 309(j)(5).

49 In order to accelerate the review process, the Commission could publish all bidders' applications before the auction and require that petitions to deny a winning bidder's application must be filed within 15 days after the auction is completed.

50 See NPRM ¶ 113.

assure that the new auction will fetch the true market value of the license, all qualified bidders should be permitted to participate.

CONCLUSION

The Commission's proposed combinatorial bidding plan for PCS frequency Blocks A and B is inconsistent with the statutory objectives and should be rejected. The Commission should begin the competitive bidding process by auctioning narrowband PCS licenses, in order to gain necessary experience before developing its final plan for auctioning licenses for broadband PCS spectrum. The principal auction method should be oral ascending bidding, which gives participants the greatest amount of information at the time of their bids.

The Commission's interpretation of the statutory criteria for determining whether to use competitive bidding is generally correct. However, competitive bidding is not appropriate for at least some "intermediate links," particularly point-to-point microwave services and fixed satellite services.

Reasonable safeguards and anti-trafficking provisions are necessary in connection with preferences provided to designated entities. The proposals suggested by AT&T will effectively avoid unjust enrichment and assure that preferences are not improperly passed to ineligible parties.

The other requirements proposed by the Commission are generally appropriate, but their effectiveness would be enhanced by adoption of the specific recommendations made herein by AT&T.

Respectfully submitted,

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